

Notice of Allowability

Application No.

10/712,932

Examiner

James Goloboy

Applicant(s)

GUTIERREZ ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 9/18/07.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jacob Levine on 9/20/07.

In line 13 of claims 1 and 14 and line 10 of claims 8 and 20 (the lines beginning "each L..."), the phrase "a linking moiety comprising" should be deleted. The amended claim should read "...each L is independently a carbon-carbon single bond or a linking group..." No new matter is added by this amendment. Support for L being either a carbon-carbon single bond or a linking group is found on page 13, lines 11-16 of the specification.

Statement of Reasons for Allowance

2. Claims 14-17 and 19-23, previously rejected as obvious over Lutwack in view of Papay, have now been amended to limit the possible sulfur linkages to $-S_1-$ and $-S_2-$, and to limit the linking moiety comprising a carbon-carbon single bond to a linking moiety that is a carbon-carbon single bond. This amendment overcomes the oligomer of Lutwack, whose sulfur linkage includes a hydrocarbyl group.

Dexter (U.S. Pat. No. 3,156,690) teaches bis-triazines useful for stabilizing oils against degradation, and the bis-triazines can be linked by an $-S_2-$ linkage, as discussed in paragraph 4 of the office action mailed 12/19/06. However, to arrive at this

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linkage from the disclosure of Dexter, one would have to choose both X_1 and X_2 to be $-S-$, A to be $-(CH_2)_n-(X)_m-(CH_2)_p-$, and finally n, m, and p all to be 0. There is no teaching in Dexter to motivate these choices, which are one permutation out of approximately 3,500 possibilities. Nor is there any teaching that would lead one of ordinary skill to narrow the group of 3,500 down to a smaller size. Therefore, it would not have been obvious to one of ordinary skill in the art to use Dexter to teach sulfur-linked triazines as lubricant additives.

Claims 1-13 require that the Ar group be a polynuclear heterocyclic moiety. Ulery (U.S. Pat. No. 3,723,317) teaches a lubricant composition that can contain as an effective additive a polynuclear heptazine oligomer (column 5 lines 46-69), but the additive only contains two Ar groups, while the claimed compounds require at least three Ar groups. There is no teaching or suggestion by Ulery to make a larger heptazine oligomer, as the reference is drawn towards triazine additives, and the heptazine oligomer is only a byproduct of triazine condensation when the composition is used at high temperatures.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Goloboy whose telephone number is 571-272-2476. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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